STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

MATTHEW RAYMOND ROOY,

Defendant-Appellant.

UNPUBLISHED
December 11, 2003

No. 239303
Van Buren Circuit Court
LC No. 01-012337-FC

Before: Smolenski, P.J., and Sawyer and Borrello, JJ.

PER CURIAM.

Following a bench trial, defendant was found guilty of first-degree premeditated murder, MCL 750.316(a), and was sentenced to the mandatory term of life in prison without parole. Defendant appeals as of right. We affirm.

Defendant strangled his former girl friend with a cord. Afterwards, he hid her clothes and transported the body to an outhouse at a public lake access. He readily agreed to accompany officers to the police station for questioning. After being asked some background questions, he was slowly and carefully read each of his Fifth Amendment rights under *Miranda v Arizona*, 384 US 436, 444; 86 S Ct 1602; 16 L Ed 2d 694 (1966). He assented when asked if he understood each of these rights. He was then questioned about his girl friend. Initially, he denied being with or even seeing her for several weeks, but he later confessed to the murder.

Defendant first argues that the trial court clearly erred in finding premeditation. Premeditation and deliberation require sufficient time to allow the defendant to take a second look. *People v Kelly*, 231 Mich App 627, 642; 588 NW2d 480 (1998). Defendant in essence asserts that there were other plausible explanations for the evidence tending to show premeditation. Even if a different conclusion could be drawn, the trial court did not clearly err in considering that defendant's journal indicated that he was planning to kill someone, he got the cord he used to strangle the victim out of a shed earlier in the day, and he made a comment indicating that he was contemplating a capital crime.

Defendant also asserts that the trial court mistakenly focused on whether intoxication negated the requisite malice when it should have focused on whether it rendered defendant incapable of premeditation. The trial court specifically found that defendant's recall and actions showed he was not so numb that he did not know what he was doing. The court properly found that defendant was not so overcome by intoxication that he could not take a "second look."

Defendant next argues that the trial court erred in finding that he did not have a substantial disorder of thought or mood that affected his judgment. See MCL 330.1400(g). Defendant points to evidence that he wanted to be caught and punished, had longstanding homicidal fantasies and a pattern of self-destructive behavior, talked of the electric chair, being a vampire, out-of-body experiences, of being controlled by outside forces, and of feeling compelled to kill against his will, and only casually attempted to conceal the crime. However, the only expert witness who testified at trial concluded that this evidence did not establish that defendant met the criteria necessary to establish the defense. Given the expert's explanations regarding this evidence, it cannot be said that the trial court clearly erred in finding that defendant did not carry his burden.

The trial court also did not err in finding that defendant could appreciate the wrongfulness of his conduct and had the capacity to conform to the law. Although defendant said he did not want to kill but felt compelled by an outside force, the expert established that he did not literally believe that another force was compelling him to act. Moreover, defendant's journal entries and attempts to cover up the crime showed that he appreciated it was wrong.

Finally, in a supplemental brief defendant argues that the trial court erred in denying his motion to suppress his confession and the evidence discovered as a result thereof. He asserts that he was illegally detained since the police did not have probable cause or a warrant to arrest him when he was taken to the police station. However, unlike the defendants in *Hayes v Florida,* 470 US 811; 105 S Ct 1643; 84 L Ed 2d 705 (1985), and *Kaupp v Texas,* __ US __; 123 S Ct 1843; 155 L Ed 2d 814 (2003), the evidence did not indicate that defendant was taken to the police station against his will. The officer explained that he did not want to discuss the matter with defendant on the street. The trial court did not clearly err in finding that defendant freely agreed with the request to go to the police station. There was no evidence that defendant was coerced or mistreated by the police in anyway. See *People v Farrow*, 461 Mich 202, 209; 600 NW2d 634 (1999). Moreover, the trial court did not clearly err in finding that defendant knowingly and voluntarily waived his Fifth Amendment rights considering that the police slowly and carefully read each right to him and he indicated his understanding of those rights. See *People v Howard,* 226 Mich App 528, 538; 575 NW2d 16 (1997). Accordingly, we find no error in the trial court's denial of the motion to suppress.

Affirmed.

/s/ Michael R. Smolenski
/s/ David H. Sawyer
/s/ Stephen L. Borrello